



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201645024

AUG 8 2016

U.I.L. 408.03-00

XXXXXXXXXXXXX  
XXXXXXXXXXXXX  
XXXXXXXXXXXXX

SET:EP:RA:T2

Legend:

Taxpayer A = XXXXXXXXXXXXX  
Individual B = XXXXXXXXXXXXX  
IRA X = XXXXXXXXXXXXX  
  
Bank C = XXXXXXXXXXXXX  
Amount D = XXXXXXXXXXXXX  
Date 1 = XXXXXXXXXXXXX  
Date 2 = XXXXXXXXXXXXX  
Date 3 = XXXXXXXXXXXXX  
Date 4 = XXXXXXXXXXXXX  
Date 5 = XXXXXXXXXXXXX

Dear XXXXXXXXXXXX:

This is in response to your letter dated September 9, 2015, as supplemented by correspondence dated February 24, 2016, July 7, 2016, and July 29, 2016, submitted on your behalf by your authorized representative, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (Code).

The following facts and representations have been submitted under penalty of perjury in support of your request.

On Date 1, Taxpayer A received a distribution from IRA X totaling Amount D. Taxpayer A asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 408(d)(3) of the Code was due to the medical condition and hospitalization of her husband, Individual B, during the 60-day rollover period which impaired her ability to accomplish a timely rollover.

Taxpayer A had IRA X invested in a Certificate of Deposit (CD) with Bank C. On Date 1, when the IRA X CD matured, Taxpayer A received a distribution of Amount D with the intent to rollover Amount D into another IRA account. Taxpayer A's husband, Individual B, also had an IRA CD with Bank C and received a distribution of his IRA on Date 1. Taxpayer A relied upon her husband, Individual B, to make their financial decisions. Amount D was deposited into Taxpayer A and Individual B's joint checking account and has not been used for any other purpose.

Individual B had medical conditions and had been in and out of the hospital and rehabilitation centers for the past few years. On Date 2, Individual B was again admitted to the hospital for two weeks, after which, he was moved to an acute rehabilitation center for another two weeks and went home on Friday, Date 3. On the same day, on Date 3, within the 60-day rollover period, Taxpayer A went to Bank C to rollover Amount D and the distribution from Individual B's IRA. Taxpayer A was advised by Bank C that Individual B had to be present in person to sign the appropriate paperwork in order to rollover his IRA funds. At this point, Taxpayer A told a representative of Bank C that she would bring Individual B to Bank C on the following, Monday, Date 4 so they could both rollover the IRA funds. Unfortunately, on Date 4, still within the 60-day rollover period, Individual B went back into the hospital where he passed away on Date 5.

Based on the facts and representations, Taxpayer A requests that the Internal Revenue Service (Service) waive the 60-day rollover requirement with respect to the distribution of Amount D.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines and provides the rules applicable to IRA rollovers. Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if-

- (i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60<sup>th</sup> day after the day on which the individual received the payment or distribution; or

- (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60<sup>th</sup> day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not included in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity and good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occur after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Rev. Proc. 2003-16, 2003-4 I.R. B. 359, provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, or hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover was due to the medical condition and hospitalization of Individual B during the 60-day rollover period which impaired her ability to accomplish a timely rollover.

Therefore, pursuant to Code section 408(d)(3)(I), the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount D from IRA X. Taxpayer A is granted a period of 60 days from the issuance of the ruling letter to contribute an amount not to exceed Amount D into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to

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such contribution, the contribution will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations, which may be applicable thereto.

This letter is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter is being sent to your authorized representative pursuant to a power of attorney on file with this office.

If you have any questions regarding this letter, please contact xxxxxxxxxxxx, # xxxxxxxx xxxxxx, at xxxxxxxxxxxx. All correspondence should be addressed to SE:T:EP: RA:T:2.

Sincerely yours,



Sherri M. Edelman, Manager  
Employee Plans Technical Group 2

Enclosures:

Deleted copy of letter ruling  
Notice of Intention to Disclose

cc:

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